

State Of Rhode Island – Division Of Taxation

Sales and Use Tax

Regulation SU 03-129

Telecommunications Service

I. Definitions:

"Telecommunications service" means the transmission of any interactive electromagnetic communications including but not limited to voice, image, data and other information, by means of but not limited to wire, cable, including fiber optical cable, microwave, radio wave or any combinations of these media. "Telecommunications service" includes local exchange service, intrastate toll service, interstate and international toll service, including cellular mobile telephone or telecommunications service, specialized mobile radio and pagers and paging service including any form of mobile two-way communication. Telecommunication service does not include service rendered using a prepaid telephone calling arrangement. "Prepaid telephone calling arrangement" means and includes a prepaid telephone calling card and/or the right to exclusively purchase telecommunications services, that must be paid for in advance, that enables the origination of calls using an access number and/or authorization code, whether manually or electronically dialed.

II. Telecommunications Services Generally:

The furnishing for a consideration of telecommunications services and the furnishing, rental or leasing of all equipment and all services pertaining or incidental thereto are subject to the Rhode Island sales or use tax provided the service:

1. is rendered in its entirety within this state, or
2. originates in this state and terminates in another state or a foreign country and with respect to which such service is charged to a telephone number, customer or account located in this state or to the account of any transmission instrument in this state, or
3. originates in another state or a foreign country and terminates in this state and is charged to a telephone number, customer or account located in this state at which such service is terminated, or to the account of any transmission instrument in this state at which such service is terminated.

The Rhode Island tax liability of interstate and international toll service originating or terminating in this state is determined by the location of the telephone number, account or customer to which the telecommunications service is charged regardless of the location of the billing and/or payment.

For purposes of this regulation, the phrase "charged to a telephone number, customer or account located in this state" shall mean the location of the transmission instrument at which such telecommunication service either originates or terminates.

Rhode Island law allows a credit or refund of sales taxes upon presentation of proof of payment of the sales tax to another state to which the tax was properly due for the identical telecommunication service.

III. Mobile Telecommunications:

Effective August 2, 2002, for purposes of Rhode Island sales and use tax, the provisions of the federal Mobile Telecommunications Sourcing Act (P.L. 106-252) are adopted. Mobile telecommunications services that are deemed to be provided by the customer's home service provider are subject to tax if the customer's place of primary use is in Rhode Island regardless of where the mobile telecommunications services originate, terminate, or pass through. The customer's "place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer and which must be located in the service provider's licensed service area. "Customer" means either a person or entity that contracts with a home service provider for mobile telecommunications services or, if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service (but only for the purpose of determining the place of primary use). "Home service provider" means a facilities-based carrier or reseller with which the customer contracts for the provision of mobile facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

R. GARY CLARK
TAX ADMINISTRATOR

EFFECTIVE: JANUARY 1, 2003

THIS REGULATION AMENDS AND SUPERCEDES SU 00-129 PROMULGATED
JANUARY 1, 2000.